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CONSIDERATIONS

ON THE

EXCHANGE

OF

SEAMEN,

Prisoners of War.

In hoc genere & naturali & honesto, duo Vitia vitanda sunt, unum, ut ne incognita pro cognitis habeamus, hisque temere assentiamur: quod vitium effugere qui volet, omnes autem velle debent, adhibebit ad considerandas res & tempus, & diligentiam. Alterum est Vitium, quod quidam nimis magnum studium multamque operam in res obscuras utque difficiles conferunt, easdemque non necessarias: Quibus vitiis declinatis, quod in rebus honestis & cognitione dignis operæ curæque ponatur, id jure laudabitur.

Cic. Off.

L O N D O N :

Printed for J. Noon, at the *White-Hart* in *Cheapside*, near
the *Poultry*.

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SEAFARERS

Prisoners of War.

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LONDON

Printed for J. Mackay at the Victoria Press in Great Britain.

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CONSIDERATIONS
O N
The EXCHANGE
O F
S E A M E N,
PRISONERS of WAR.

THE Author of the Reflections, contained in this and the following Sheets, was led, in the present Conjunction, by a Love to Mankind in general, and an Affection to his Country in particular, to consider the Subject of Prisoners of War. Recurring, on this Occasion, to various Writers upon the Law of Nature and Nations, and of War and Peace, on Government and moral

ral Philosophy, he did not obtain that compleat Satisfaction which he sought, and was therefore naturally led to pursue his Enquiry, till he could discover Truth, or what, to the best of his Judgment, should appear to be such. If he has illustrated and supported the Interests of his *Country*, *Christianity*, and the *Rights of Mankind*, he has not failed in the Enquiry : With a Design to advance those valuable Ends, the Result of it is put to the Press ; and, as nothing is inserted, which can tend to promote the mean Purposes of *Faction*, *Irreligion*, or *Scepticism*, it is communicated to the Public with that Pleasure, which the Consciousness of such Intentions must give ; and with Expectations of that Candor, which it cannot be Presumption to hope they deserve.



IN Case of *equal Numbers* of *Seamen* originally between two Nations, and *equal Captures* in point of Number, a reciprocal Exchange of Man for Man can create neither Advantage nor Disadvantage to either Nation, except what may be supposed to result from the different Quality of the Seamen of one Nation, as opposed to those of the other : But this Case perhaps is in both its Parts a meer Supposition, and did never actually exist.

In all other Cases, the *Numbers* being *unequal*, either by *Inequality* of Capture, or that and *original Inequality* together, it may be urged, that an *Exchange of Man for Man* must be detrimental to the Interest of that Nation, which has the greater Number of Prisoners. — As supposing any Numbers, the Restitution of any equal Number will vary the Proportion between one national Force and the other.

Suppose at the Commencement of a War the Number of Seamen of each Nation *equal* ; as,

30,000	- - Men for both	- - - 30,000
20,000	- - Deduct	- - - 10,000
<hr/>		<hr/>
10,000	- - Remain	- - - 20,000

By these Captures the Proportion, instead of an Equality, will be as 6 to 12.

Upon the Principle of exchanging Man for Man,

10,000	- - - - -	20,000
4,000	- - Add to both	- - - 4,000
<hr/>		<hr/>
14,000	- - - - -	24,000

Hereby the Proportion is varied as 7 to 12. Hence it is clear, that the Nation having the greater Number of Prisoners will, by the Exchange of Man for Man, have one 12th less in Proportion than before.

fore. So of any Numbers ; as when *originally unequal* ;

$$\begin{array}{rcl}
 42,000 & - & 51,000 \\
 28,000 & - \text{ Deduct} & 17,000 \\
 \hline
 14,000 & - \text{ Remain} & 34,000
 \end{array}$$

or $\frac{7}{17}$ equal to $\frac{63}{153}$

Add on both Side, as exchanged,

$$\begin{array}{rcl}
 2,000 & - & 2,000 \\
 \hline
 16,000 & - & 36,000
 \end{array}$$

or $\frac{68}{153}$

The Variation is $\frac{5}{153}$ or $\frac{1}{30}$ in Disfavour of the Nation, which has the greatest Number.

This *Principle of Calculation* is the Basis of every Argument that can be offered against a reciprocal Exchange of Prisoners, Man for Man ; and must be proved

proved to be of the last Consequence, before it should be suffered to overbalance the Arguments in favour of such Exchange.

But it is apprehended, that if we judge from the Nature of Things, the great Events of War never on the whole can, nor we conclude from History ever in general did, bear that Proportion to the Numbers reciprocally employed, which must be supposed, to render the above Objection to an Exchange valid : Those Circumstances, which at first contributed to procure the one Nation a Superiority of Prisoners over the other, must upon the whole continue to have the same Operation ; and when Considerations may be allowed of greater Talents, Skill, Spirit, National Disposition, Genius, or any other Quality that give one Set of Men, or one Government, a natural or acquired Superiority over another in that Species of War, in which they are principally concerned ; their Numbers may be considered as in effect augmented ; and their Influence, in all the great Acts
of

of War, will bear still less and less Proportion to their actual Numbers, comparatively with those of their Enemies.

The Interest of the Nation, which has the inferior Number of its Enemies Prisoners, is evidently on the Side of such an Exchange, on every Account.

That the *Principle of Calculation*, after what has been observed upon it, ought to have no Weight with the Nation, which has the greater Number of its Enemies Prisoners, against such Exchange; will appear from considering the Matter in the two Respects, in which, as a national Act, it is an Object of Consideration; *i. e.* in Point of *Right*, and in Point of *Policy*.

The *first* takes in two Considerations, as it regards our *Enemy*, and as it concerns *ourselves*. In general it is to be observed as to both, that WAR has its LAWS as well as PEACE: Those *Laws* must be general and permanent; such as are best calculated for the Happiness of
Mankind

Mankind upon the Whole ; not such as must vary with every Change of Fortune, and can at best be attended only with some particular but transient Advantage ; and may, in the Result of Things, be productive of the most formidable Evils.

First, as it concerns *ourselves*, in Point of *Right*. Every political Community being invested with a Power of employing the *Force* of that Community in the Execution of its Laws for the Regulation and Preservation of *Property* ; and in Defence of the Common-wealth from foreign *Injury* ; when War is necessary to the public Good, the Labour, Industry, and Lives of the Subjects are to be used in its Service, so far as is requisite to obtain *Reparation*, *Justice*, and *reasonable Security*.

But whatever encreases the Mischief further than is necessary for the true Purposes of War, without which we could obtain our Right effectually, is allowed to be *unjust* and *detestable*. A *lawful End* gives a Right to *necessary Means* alone ;

alone; wherever the *Necessity* ends the *Right* ceases, and no Hardships to our own fellow Subjects, or Cruelties even to the Enemy, beyond that Boundary, are innocent by the *Law of Nature*, or can be rendered so by any *public Act*. War being the *ultimate Remedy* allowable only through *Necessity* against *Injustice*, and always attended with many dreadful Effects, it is an indispensable *Duty* to alleviate the Miseries it occasions by all possible Methods, and to render it as little cruel and destructive as the Nature of the Case will allow.

Ev'ry Subjects *Right* to Liberty and the other Privileges of civil Government, under the Laws of his Country, is a *perfect Right*; of which he cannot be justly depriv'd without his having committed some *Act* to *forfeit* that *Right*: In other Words, *Allegiance* and *Protection* are reciprocal; where the one may be *justly claim'd*, the other is *strictly due*.

— It has been maintain'd, that a Subject banish'd for his Crimes from the Society of which he was a Member still re-

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 mains, as a Man, under an Obligation never to engage in Arms against it. There are Cases where Evils may be justly render'd unavpidable even to the Innocent for the sake of Society; and as many receive great Advantages from Society, without Merit, so they may be involv'd, without any Demerit, in some of the Misfortunes, which, in this Light, are inseparable from human Nature: — But it cannot sure be contended, that any Society can have a Right voluntarily to relinquish those to all the Miseries of a Prison in an Enemies Country, and their Families to all the Evils consequent upon it, who have exerted themselves in their different Stations in the best Manner, and brav'd the greatest Dangers in support of that Society. — Crimes may annul the Right to Liberty, Protection, and Life; but Misfortunes, especially such as are the Consequences of Acts done for the Preservation of those Privileges, corroborate that Right, and furnish additional Claims.

Ev'ry State is oblig'd to defend and protect all it's Members; and Subjects
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abandon'd by their Country, without any Crime committed, recover their *natural Liberty*, and may renounce the Society, which affords them no *Protection*: The same Law of Reason, which justifies the Expulsion of a Member of Society, who violates its Laws; will justify that Member in withdrawing from it when it performs not the Obligations it owes to him. Hence the State is under an Obligation to procure, as soon as possible, the Release of its Subjects from those Evils, to which they become subjected in it's Defence; and, till their Liberty can be obtain'd, is under the same Obligation to furnish them wherewithal to support themselves in their Imprisonment. They are to be consider'd as Members of the Society, and as a valuable Part of it; who are only render'd incapable of performing some Duties by ill Fortune in the Discharge of others, the most essential, at the Hazard of Life itself. Their Claims on the Society, instead of being suspended by that Imprisonment, receive additional Force, and lay the Society under an indispensable Duty

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of

of acting in the most speedy and effectual Manner in their Favour.

If the procuring the Liberty of such as happen to be taken Prisoners, is an important Branch of that *Protection*, which they may expect, and have a *perfect Right* to claim from the Society to which they belong; that Society must necessarily be under a *perfect Obligation* to do all in it's Power to procure such Release. To suppose perfect Right without a correspondent Obligation, is to suppose an Absurdity; that is, a Right that is no Right; and to demand *Allegiance* and afford no *Protection* is contrary to the *first Principle* of all Government.

If it be even granted, that relinquishing the Protection due to our own Subjects taken Prisoners by the Enemy, in order to retain the superior Number of theirs Captives, might be a probable Means of reducing the Enemy to a state incapable of War, and to proper Terms of Peace, it ought to be class'd among those dark Methods of Destruction, such as *poisoning Springs*,

Springs, &c. which, upon the Deductions of Reason and Humanity, all *civiliz'd Nations* have agreed to explode. The latter indeed Necessity might justify us in practising against an Enemy, who should be wicked enough to renounce that *ratio belli* so beneficial and so honourable: But, in the Case under Consideration, no such Necessity can exist.

It has been shewn above, that the Advantage urg'd from the Nicety of Calculation is in reality of little or no Moment: But for Argument sake, if all Circumstances are suppos'd to be such as to turn the Advantage at a particular Conjuncture clearly on the Side of one Nation, such a View of *immediate Interest* will shew it, as to that Conjuncture, to be *expedient* for that Party not to solicit or desire an Exchange of Prisoners; but will not of itself prove it *right* with respect to their own People: And it will even much less shew it to be so, to refuse it when desired by the other party.

It has been observ'd already, that some
general

general Rule must be establish'd, as most adapted to the *general Interests* of Mankind, and to which *all Nations* shou'd adhere in all Circumstances. The common Interests of Mankind require them, their Obligation is universal, and ought to be inviolable.

It cannot be contended, that the Non-exchange of Prisoners of War is more expedient upon the whole, and in all Situations; on the contrary, an Exchange of Prisoners is one of the *capital Laws* of War among *civiliz'd Nations*; and even upon the Supposition of it's being more expedient in any particular Case, which will be again considered under the Question of Policy; yet if a Regard to *Interest* in particular Circumstances be sufficient to warrant an Infringment of a *general Rule* in certain Cases, the Inference may be equally drawn against the Force of every Rule of Reason and the whole System of *Morality and Religion* be set aside: By our breaking one Law of War, the Enemy may be at Liberty to break all the rest; the Use of the *scalping Knife*, and the

the Cruelties of *cool Blood*, with every other *Torture* inflicted by the *Savage*, will become allowable; and War be carried on not by *Men* but by *Monsters*:
 QUID ENIM INTEREST, UTRUM EX HOMINE SE QUIS CONFERAT IN BELLUAM, AN IN HOMINIS FIGURA IMMANITATEM GERAT BELLUÆ. CIC.

In Addition to the Claims of *Justice* to the Exchange of Prisoners here contended for; ev'ry Motive of *Humanity*, and more eminently the Duties, which we owe to our own Countrymen, plead strongly in it's Favour. — The suffering a Number of Men, of a Class not only beneficial, but essential to the Prosperity of the Nation, to remain, during any longer Term than is unavoidable, in *Pri-sons* and *Dungeons*, not adapted in general to Health, and in some fit at most for the worst of Felons; destitute of good Food in most, supplied with the worst, and defrauded of Part in many, with no other Bed in Months of the greatest Rigour than a small Quantity of Straw on a Pavement of Brick or of Stone; wast-
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ing away in Rags or Nakedness, amidst Nastiness, Vermin, Infection and Chagrin, or languishing in a crowded Bed, in an Hospital in a foreign Country, remote from either Family or Friend, is a Degree of Cruelty to which no Consideration of Interest can induce a *good Mind*.

If to these Considerations be added the distress'd Condition of their Families at home, depriv'd of their natural Benefactor, and many of them incapable of acquiring Support themselves; the cruel void created in the Lives of the Prisoners themselves, and the complicated Evils brought on their private Concerns, and on all that is dear to them at home, for all which the Public makes not even any inadequate Satisfaction; — all the *Rights of Humanity* as well as those of *Justice* call aloud for the *Exchange*.

Two Answers may be suggested to the Argument drawn from Humanity.

First, That by Means of giving up the Advantage appearing by the Calculation

to

to be given up by the Exchange, the Effects of the War in the same Space of Time may become more detrimental to the Nation, or the Duration of the War itself be protracted; and on either of these Suppositions Humanity to the Prisoners, whose Release shou'd be procured by the Exchange of an equal Number of the Enemy Prisoners, wou'd be Inhumanity to the Kingdom in general.

2dly, That it will always be in the Power of the Nation who has the greatest Number of their Enemies Prisoners, to secure a proper Treatment of it's own Subjects, whom their Enemy has taken captive.

In reply to the first of these Suggestions, it would be sufficient to observe, that the Weight of it resting intirely on the Nicety of Calculation, what has been urged above in answer to it, from the Considerations that the decisive Events of War do not depend upon any such minute Differences in point of Numbers, has equal Force here.

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But it may be further observed, that the refusing to exchange Prisoners of War in the Manner contended for, would not only tend more to protract than to shorten War; but would contribute to shorten Peace, and render War more frequent; and consequently, that the Plea from Humanity receives great additional Strength from this Consideration, in an extensive View.

It tends to shorten the War, when the Disparity is great, by enabling us to act with a greater Superiority of Ships over those of the Enemy, than we should be able to do, if a reciprocal Exchange of Man for Man, as far as it could go, took Place. This is the only Advantage. But though it thus preserves the Superiority of Force of one Party, it lessens the *actual Force* employed in the War, and by that Means prevents the War from being carried on with all the Vigour and Strength, which the national Circumstances would otherwise naturally admit.

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By this Means the War grows more and more languid, may be spun out to a greater Length, and last till both Parties are so exhausted, as to lay down their Arms, when an Inability to wield them any longer induces a Necessity of agreeing to a Peace ; though neither one Side has obtained a sufficient Redress for the Injuries, which occasioned the War, and Security against the Future ; nor either has felt such Evils of War, comparatively with its Enemy, as to make them submit to the Terms prescribed by a Conqueror: And hence Treaties of Peace, *AB* concluded while the Causes of War, and the Passions kindled and enflamed by it, remain in full Force ; and while the Ends of Justice, or even Ambition, though not obtained, do not yet appear to either as unattainable instead of finally terminating old Differences, adjusting the important Interests of Nations, and spreading the Blessings of Peace among Mankind, afford Matter only for new Disputes, settle only some specious but inconsiderable Rights, and last no longer, than till either

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Party

Party judges itself enough recruited to commence Hostilities, and can find a Pretext to attempt where it believes it has Force to succeed.

But supposing the Objection true in its utmost Extent ; it seems of no Force against an Exchange. For ;

As the Ends proposed to be obtained by the War are supposed to be advantageous to the *whole Nation*, the Dangers and Inconveniences of the War should be shared as equally as may be by the whole Nation too.

But to refuse redeeming that unfortunate part of the Nation, who are taken Prisoners in carrying on the War, in hopes by that Means to shorten it in some Measure, is to throw an unjustifiable Share of the Evils of the War upon the Sailors, to procure the Ease of the Rest of the Community.

The Prisoners have a *Right* to be redeemed ; and any Protraction of the War

War suppos'd to arise from their Redemption, must be considered as a *natural Evil* of the War to be shared by the whole Nation. No Arguments drawn from any suppos'd Utility to any other Members of the Society, can annul or invalidate this *Right* to Redemption inherent in the Captive; and any that wou'd prove the whole Society unequal to the suppos'd Inconveniencies of a just and necessary Measure, wou'd so far prove it unequal to support a War; and lay it under an Obligation of submitting to the best Terms of Peace it cou'd procure; or in extream Cases of hazarding it's own Extinction by exerting the last Efforts in support of its Liberties and Rights.

The Conduct of the ROMANS, who were against redeeming their own Subjects, who were taken Prisoners, has never been justified on a Principle of *Equity*, but on Motives of *Policy* and *military Discipline*, suppos'd to be adapted to their particular Government, and conducive to the Purposes of their Ambition and universal Empire. For it was inconsistent with the *Spirit*
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of the *Laws* that sometimes prevailed in their State; and wou'd never be approv'd by the present Race of Men; from among whom most of those barbarous Decisions which disgraced human Nature as early as the *Egyptian*, and as late as the *Roman* Politics are banish'd.

It was inconsistent with the *Spirit* of the *Laws* that sometimes prevailed; for if those, who have submitted to an Enemy, were to be deem'd to have forfeited all Rights on their Country, the *Roman Law* shou'd not have favour'd the *Return* of those Citizens from the Enemy, as it did by deciding that;

NIHIL INTEREST QUO MODO CAPTIVUS
REVERSUS EST: UTRUM DIMISSUS, AN
VI, VEL FALLACIA POTESTATEM HOS-
TIUM

EVASERIT: ITA TAMEN SI EA MENTE
VENERIT UT NON ILLO REVERTE-
RETUR.

Dig. l. 49. T. 15. c. 26.

and,

QUI CAPTUS CUM POTERAT REDIRE
Non

NON REDIIT, PRO TRANSFUGA HABETUR.

Dig. l. 49. T. 16. c. 5. § 5.
 nor shou'd it have establish'd the various Rights of *Postliminy*, which, on such a Supposition, were impolitic and absurd.

It wou'd never be approv'd by the present Race of Men, who in all *civiliz'd Countries* have branded with Infamy all those enormous Usages, abhorrent to Nature and common Sense, which were once esteem'd even *legal, pious, honest*; and were permitted even in the most *polish'd of former Times*: Such as *Desertion, Exposition and Murder of Infants, human Sacrifices, &c.* which prevail'd even to the Times of *Constantine, Valentinian, Valens, and Gratian*; that is between three and four hundred Years after the *Christian Æra*, notwithstanding all the Efforts of the Propagators of that Religion to abolish such inhuman Practices.

But even supposing the Conduct contended for in the Objection allowable, *viz.* that a State might leave in the Hands
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of its Enemies during the War all it's Subjects, who shou'd be taken Prisoners; will not a Question arise, whether in a Government constituted like ours, any thing less than the legislative Power cou'd authorize such a Practice? At all Events, such Conditions ought surely to be previously made known either by a public Act, to which all are suppos'd to consent, or otherwise; that Men may not be deceiv'd, and the State itself fail of great Part of that Advantage, if there was really any, which it wou'd propose by such Conduct.—But this will be again considered under the Head of Utility.

With respect to the 2d Answer suggested to invalidate the Argument drawn from Humanity in favour of the Exchange, *viz.*

That the Nation, which has the greatest Number of it's Enemies Prisoners, may always be able to secure a proper Treatment of it's own Subjects taken Captive by the Enemy; the following Observations

tions seem to leave the Argument in favour of the Exchange in full force.

The Care taken of the *French* Prisoners of War by *England* in Health and Sickness, the Commodiousness of the Places upon the whole in which they are confin'd, the good Provision and Lodging with which they are furnish'd, the great Precautions taken to secure them from all Abuses or Fraud, the Facility with which they may convey any Complaints to those who have the chief Direction of what concerns them, the frequent Opportunities of making any to those Persons themselves, and the Regulations affix'd in all the Places of their Confinement, acquainting them with whatever they are entitled to by the Bounty of the Government, as well as the Rules they are to observe, are so peculiar, that the Prisoners can be said by none, who are acquainted with these Particulars, to suffer any Evil in their Captivity but that Captivity itself, and such as cannot be separated from it. The Plan itself is not only generous and good, but the actual Superintendency of the Execu-

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tion of it, has so effectually answered the Ends propos'd, that it may be asserted upon good Information, that upon accidental Exchanges some have even contriv'd to forfeit their Turn of Exchange, and voluntarily surrender'd themselves when their Design was effected; and others have sold it for a trifle to their Companions: And notwithstanding the various Classes of which such Prisoners consist, the various Circumstances in which they are taken, the Change from a Life of Labour and Difficulty to a State of Idleness and Plenty, together with the Effects the Sense of Captivity and its Consequences must have on the Minds of many, yet, the Number of Sick out of between *nineteen* and *twenty thousand* Prisoners has been for a long Time together some hundreds under a *thousand*; and out of the same Number the Dead in a Week have but very little exceeded, and sometimes not equalled, the Days of that Week.

If these, as there is the greatest Reason to believe, are indeed indisputable Facts, and such as the *French* must be
sup-

suppos'd minutely acquainted with from their Agents who pay the Allowance of their King to his Subjects Prisoners here; they must do Honour to this Country, so far as they go; and they must furnish to those, who had the immediate planning, and those who are entrusted with the Execution of such Designs, the most elevated of all Satisfactions; that which arises from a conscientious and successful Discharge of their Duty, and a Sense of having alleviated and prevented much Misery, and augmented the Quantity of Happiness among Mankind.

But even supposing that an equivalent Care and Generosity cou'd be secur'd to our Countrymen Prisoners with our Enemies; Captivity itself, and the Devastations it creates in all private concerns, are very horrible, and all the Alleviations that can be devis'd, very shocking to human Nature: Even they, who may have no Idea of a free political Government, yet must feel actual Restraint, and cannot, while under it, exempt themselves or their Families, from the Consequences,

which in the Course of Things must attend it; and were the Point to be considered between two Nations before they engaged in War, it may safely be said to be impossible, but that they wou'd agree to such an Exchange at all Events; and to bear any Inconveniencies that might be suppos'd to arise from it, rather than suffer their People to remain for Years in Captivity, and experience the certain Mischiefs of it.

If these Reflections are just even upon the Supposition of the best Treatment on both Sides, how much stronger must they argue in favour of the Exchange, if that Treatment is not, or cannot be secured to our own unhappy Countrymen languishing in the Jails and Dungeons of *France*? — Till that End is secured, at least as far as the Nature of the Thing will admit, the Argument from Humanity remains in full force. — They who have the best Means of judging, may perhaps look upon it as next to impossible that it shou'd be so secured; Complaints with Difficulty find their Way to *England*, and with more Dif-

Difficulty can be formally establish'd; and the Distresses and Miseries of our Countrymen for want of such Exchange must at least remain long unalleviated, and for the most Part cry in vain for Relief.

In the * Beginning of the present Reign, a Provision was made by the Legislature for the Subsistence and Passage home of seafaring Men and Boys Subjects of *Great Britain*, who shou'd by Shipwreck, Capture, or other unavoidable Accidents be driven or cast away upon foreign Parts where any Governours, Ministers and Consuls appointed by the Crown, or where two or more *British* Merchants reside; but for the unfortunate Prisoner of War in an Enemy's Country, where no Governours, Ministers or Consuls appointed by the Crown nor any *British* Merchant reside, no Provision is yet established.

And when it is considered further, what an Allowance is paid by the *French* to their Countrymen, Prisoners here, the peculiar Hardships of the *English* Seamen in

* V. 1. Geo. 2. St. 2. c. 14. § 12, 13.

War must appear in the most effecting View.

As to the Method of enforcing a proper Treatment of our Countrymen, by Means of the superior Number of Prisoners in our Possession; a *generous Nation* will be more inclin'd to listen to the Voice of *Humanity* than of *Retaliation*; there will ever be something horrid and repugnant to such a People to be oblig'd to act inhumanly, and to reduce the Innocent to perish miserably in a Prison.—— They may indeed be looked upon, in this Light, as *Hostages*; but the putting in force any great Severities against innocent Victims to the Crimes of others, is contrary to the Rights of common Humanity, and wholly exploded among the civiliz'd Nations of modern Times, as they often were even by the ancients themselves.

It is to be observ'd too, that were the *Exchange* contended for to take Place, the Reason urg'd for *Retaliation* wou'd not exist; at most in a very minute Degree; and consequently some Part of the Impu-
tation

tation must fall to the Party who refuses such Exchange: And even supposing Calculations of Policy cou'd be fairly urg'd for violating the Laws of Humanity on one Side, when they are trampled under Foot on the other; it wou'd surely be more eligible to agree previously that no Quarter shou'd be given, than to recur to so terrible an Extremity, and to introduce so shocking an Addition to the Art of destroying one another, even when Arms were laid down, and in cold Blood.

But, to destroy the whole Force of the Argument, it will be enough to consider that the Method of Retaliation itself is uncertain and inadequate; and that on several Accounts.

By a necessary Precaution all Governments will prevent, as much as possible, their Prisoners of War from corresponding either with themselves or others, without submitting their Letters to a previous Inspection: But, by this very Means, a Precaution justly practised in itself, in order to prevent Combinations, or to stop Intelligence,

gence, which might be prejudicial to the State, may keep Cruelty and Oppression unknown but to those who profit by them, and render them irremediable.

If their Complaints find their Way home, though they may be accompanied with such Circumstances as to deserve Credit there; yet, unless by the Nation's paying them a just Allowance while in the Prisons of their Enemy, it cou'd have from the Persons employ'd in that Service authenticated Accounts of their Condition and Treatment; those Complaints can seldom be accompanied by any Circumstances, which an Enemy's Ministry will allow as Proof: Many Evasions will be employ'd to elude their Force; the whole will be ascribed to the Propensity of all Men in Distress to exaggerate their Miseries; and one Remonstrance which may happen to have no better Foundation, will be made use of as a sufficient Ground to deny the Truth of All.

The Whole of these Discussions between two Nations at War must necessarily

rily be attended with such Delays, and be spun out to such a Length of Time, as render them by no Means a proper or effectual Remedy for actual Evils, which affect every Interest of Men, their Liberties and their Lives.

But further ; The Efficacy of this Expedient itself, allowing it the utmost Propriety possible, must depend on the particular Disposition of the People we are engaged with, or of those more especially, who have the Management of their Affairs ; and even on the Situation of their Country, and Nature of their Government ; and it may be affected likewise more or less by every great Distress brought on their public Affairs.

It may be even doubted, whether the Bulk of a People, not distinguished by Compassion to their Enemies, and indulging at present even a peculiar Bitterness against us for a Conduct justified by the clearest Principles of Reason, would see with Patience our Countrymen furnished

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with better Necessaries of Life than the Majority of themselves could with all their Industry procure, for this would be the actual Case if the Treatment of the *English* in *France* was correspondent to that of the *French* in *England*. At least in the present Circumstances of Distress under which that People labour, and the Rise of Necessaries which must take Place more or less, where any Number of our People are confined, it is very improbable that the Experiment will be made. Times of War are always Times of Difficulty to the Administration of every Country, and, where there is much to struggle against without, even the most unskilful Policy will endeavour to prevent Disturbances within.

If the Territory of the Enemy be extensive, where the inferior Agents in Government are seldom exposed to the actual Inspection of their Superiors; if the very Form of their Government is such, that the immediate Oppression, even of their own People, is much in the Power
of

of these inferior Agents ; and if Instances of that Oppression, and of the greatest Avarice and Extortion are not unfrequent even with Respect to them, it seems morally impossible, even supposing the best Intentions in their Court or Administration, that their Enemies, Prisoners among them, should receive any constant and uniform good Treatment, secured from the Avarice and Artifice of those employed about them. Particular and transient Reformation of Abuses may occasionally be obtain'd, but their Complaints, however well founded or enforced, will never meet any adequate or lasting Redress.

Thus far on the Point of *Right*, which, as was observed, comprises two Considerations ; one respecting ourselves, and one regarding our Enemies. The Latter is not immediately within the Intention of our Enquiry, and shall not therefore be discussed. The other Respect, in which as a national Act it was said to be an Object of Consideration, is that of *Policy*.

The only Advantage which can be supposed to arise from the not exchanging Prisoners to that Nation, which has the Superiority in Point of Numbers of its Enemies Prisoners, is the retaining that Superiority undiminished ; and by that Means preventing any ill Consequences, which might attend that Alteration in the Proportion of their respective Forces, which even a reciprocal Exchange, is allowed to produce.

What Weight this Argument ought to have, even independantly of all others, and many others must be well weighed before the Question in Dispute can be determined, has been shewn under the former Head ; and it is apprehended that if after what is there observed, it seems to retain any Force, even that Force will be lost, when the further Inconveniencies shall be noted which will arise from the Refusal of Exchange.

Those

Those Inconveniencies may be deemed at least three-fold.

First, Such as affect the *Expences of Government*.

Secondly, Such as affect the *Navy* and the *general State of the Marine* ; and,

Thirldy, Such as affect *Trade* and its *Dependencies*.

As to the First, it is contrary to one of the first Principles of all Policy, to maintain a Number of idle Hands with every Necessary for Health and for Sick-ness by the Hands of Industry ; and in Time of War it must be peculiarly so ; as the Demands of Government are then most considerable, and such an Augmentation of them, which must be in Proportion to the Number maintained, must be then most sensibly felt. A Circulation of Property, generally considered, is certainly no Evil ; but when it is necessary
to

to encrease the Quantity in particular Channels, Oeconomy, which is ever a principal Duty of the Statesman, becomes essential, as the Difficulties of raising Supplies will ever encrease with the Supplies required.

The necessary Expence of maintaining and securing the Number of Prisoners this War, in that generous and noble Manner in which they are treated by this Government, though that Service is carried on so as to secure to the Captives the full Effects of the Intention of the Government, without admitting the intermediate and exorbitant Gains of general Contractors, is certainly an Object of that Nature ; and the Sum to which it amounted, with every possible Precaution, according to the Account delivered into Parliament from the 1st of *January*, 1757, to the 31st of *December* following, in which the Article of Contingencies, as is very observable, was comparatively a meer Trifle, proves it such.

There

There are now upwards of twenty-two Thousand Prisoners of War in *Great-Britain*; a Number considerably more than during any Time to which that Account relates, and which will continually encrease, if no Exchange or only inconsiderable ones take Place; and it is evident therefore that Expence must grow heavier and heavier, and be of more and more Moment.

I am aware that it may be suggested, that this Evil, whatever it be, is counter-balanced by that large Sum, which so great a Number of Prisoners causes to be remitted into these Kingdoms from the Court of *France*, by Means of that Allowance, which it makes to all its Subjects from the Day of their Captivity, and which may, upon an Estimate formed on no indifferent Materials, be supposed to have amounted for the Year 1757 to the Sum of seventy-four Thousand, six Hundred Pounds and upwards, and on the Number at present Prisoners in *Great-Britain*

£74600
in 1757

£109500.

Britain and Ireland in this Month of *October*, may be estimated at three Hundred Pounds and upwards *per Day*.

But whatever Advantage the Introduction of so much Wealth into the Nation might be deemed, simply considered ; it may, when obtained in Consequence of such a Measure, be pronounced an unjust and illegal Traffic : As in such Case it would, strictly speaking, be a Commerce in which the Rights, Liberties, every Thing valuable, Health and Lives of our unhappy Countrymen taken Prisoners by the Enemy would be bartered for that pecuniary Consideration. Unjust, and illegal : as *Montesquieu* said on another Occasion, *Je ne sçai si c'est l'Esprit ou le Cœur qui me dicte cet Article ci*, but surely the condemning them to Imprisonment, and many consequently to perish Inch by Inch by Want, Nakedness, Chagrin and Goal Distempers must be at least as contrary to the Law of Nature and the vital Principles of the *British* Constitution, as that Slavery from which we boast it is exempt, and

113.

and which would even admit of Alleviations not be obtained in the other Case.

With Respect to the Inconveniencies that may affect the Navy and general State of the Marine, and such as may affect Trade and its Dependencies, they are so connected that they may be considered jointly.

In a trading Nation like *England*, that owes its Independency to its Commerce, which is the Source of its Wealth and the Support of its Fleet, it should seem to be a fundamental, and indisputable Maxim in Policy to engage its People by every possible Encouragement to follow the Sea; and to alter every Practice, which must necessarily tend to deter them from it.

Whatever encreases the Dangers to which the Sea Life is exposed, must in Proportion have a Tendency to create Aversion; / whatever exposes it to such as scarce any human Being would volun-

tarily run the Risque of, must have that Effect in an eminent Degree.

Was it made known at the Commencement of a War, that an Exchange of Prisoners was not to be admitted during its Continuance, it would be far from absurd to apprehend, that it might put almost a total Stop to the Trade of the Nation, by deterring its Men from sailing in Merchant Ships exposed to the Misfortune of such Imprisonment.

If a Resolution not to exchange, as far as the Fortune of War would allow, was in itself just and political, it ought to be made known, for no such Consequences would attend such a Practice as the common Sense of Mankind could justify.

143. But in Proportion as Dislike and Resentment operate, more or less they must affect the Number of Seamen of the Nation; for nothing but what tends to promote the Trade of a Nation, tends to encrease the Number of its Sailors, which will

will ever be in Proportion to its Trade ; and here all the various Circumstances that would enable one Nation to recruit with more Facility than another its Number of Seamen, by alluring or forcing Men to the Service of the Sea, who would soon become sufficient Sailors when joined with others more skilful, are Objects of Consideration ; and should teach that Nation, that has less Power of Compulsion or Allurement, to procure as soon as possible a Redemption of its Subjects, who may be Prisoners.

Its Seamen may be divided into two Classes, those who navigate the Merchant Ships, and those who man the Navy ; And where the Dominions are so extensive and remote, and the Trade so multifarious and large, as those of *Britain*, the whole Number of both cannot exceed the Calls there must be for them.

With Respect to the First ; so far as it may be supposed that Commerce would still be carried on after such a Resolution

was made known, it seems clear, that it could be no otherwise than by enhancing the Wages of the Seamen, who should navigate the Ships, so as to tempt them to run the Risque; and by furnishing them with the best Means of preventing their becoming Captives. This would lay the Merchant under a Necessity of supplying a greater Store of Ammunition and Guns, and a greater Number of Men than would otherwise be employed.

Thus what should be regarded in a trading Nation as a first Principle, the carefully avoiding every Thing which may enhance the Price of Things, would be counter-acted.

For whatever tends to encrease the Expence of the Merchant in the Voyage, will be added necessarily by him to the Price of all Commodities imported or exported.

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In those which are imported only and consumed at home, the Weight, as it must ever fall ultimately on the Consumer, must be borne by ourselves; and thus the Expensiveness and Difficulties of living would be encreased, and by a natural Tendency would continue to rise more and more.

Those which are exported to foreign Markets, and particularly such the Substance of which is first imported to be worked up, might be so much encreased in Price, when they came to those Markets, as not to be vendible, and by this Means the utter Ruin of those Trades might be incurred; and some other Nation, which is at Peace, and not under the Necessity of such Expences, be enabled to under-sell all who are.

It may be objected, that the Purposes of Trade may be carried on by employing Foreign Navigators, as is now permitted in Part by our Laws: But even supposing that

that this could be effectually done with Respect to the Purposes of Trade, the Expedient, considered in an extensive and political View, would itself be a very great Evil. Every Foreigner made a Sailor in this Service gains that Information, which the Natives should be encouraged to acquire, and whatever Profit of his Industry is transmitted to his Home, is so much clear Loss to this Country.

It may be objected likewise, that the manning the Navy, which is in great Measure effected by a permitted Violence, may be effected still by impressing so many more of those, who would otherwise be employed in the Merchant Service; but this Expedient too would itself be a very great Evil; it would be exhausting the present Store without providing any Supply; it would be supplying present Wants, by rendering those of the future certain and irremediable.

As

As to the only other Methods, those of extraordinary Bounties, or other Encouragements, they must be deemed considerable Evils too ; as they must add so much more to the Expences of Government ; and bring more or less of the Inconveniencies above-mentioned on Trade and its Dependencies ; as it is incontrovertibly true, that so long as the Consumer can be made to pay the advanced Price of any Commodity, the Merchant will find his Account in carrying on the Trade ; and consequently that till that Degree is exceeded, the Merchant will only bid the higher for his Men, and encrease the Price of his Goods in Proportion.

It may be observed that the Inconveniences, which will inevitably attend a Non-exchange, even though no such Resolution is promulgated, will drive the Merchant, who will ever be the last to lose, more or less to some such Expedient. It is actually the Case in the present War ; and we have ^{gone} to far in order to avoid those
Incon-

Inconveniences, that some of our Trade, as that with the *Portuguese* for Instance, is in great Part carried on in Foreign Bottoms. A Proceeding by which the Nation must suffer in a still greater Degree ; as whatever Branch of Commerce is so carried on, ceases to be, as it ought to be, a Nursery of Seamen, either mediately or immediately ; and all the Profits acquired by such Foreign Nation, as the Carriers, is evidently so much Loss to this Kingdom.

But this Expedient, allowing it for Argument Sake to be the less Evil of the two, must from the Nature of it be either so trifling as to be inadequate to any great End, or by being more considerable cease to be, in the most confined Sense, beneficial.

We have already put in Force in some Measure, what the Law of Nations will clearly justify with Respect to the Property of an Enemy found in neutral Vessels ; and whether such Seizures will be extended

extended by us beyond the present Limits or not, if the Enemy have not yet done it with Respect to ours, it must be owing to other Causes than a Want of Right or Want of Will ; and when such Acts become reciprocal, the Danger of that Method of carrying on Commerce, and the Difficulties, Delays, and Expences of Litigations and Appeals will have an equal Effect on Trade and all its Dependencies ; and either enhance every Thing to the Consumer far beyond its Worth, or drive the Merchant back again to the usual Course.

The Inconveniences of such Non-exchange may likewise necessitate the Introduction of Foreigners into the Fleet, as has been actually the Case in this War : A Practice which must by the Nature of Things be attended at least with the Evils mentioned above to be consequent upon their being used in Trade.

It may in the last Place be objected that by the Release of any such Number,

as may be required to procure the Exchange of the *English* Prisoners in *France*, the Enemy will be enabled to fit out a Number of Privateers, the Effects of which will be felt on our Trade ; or to equip their Fleet for the various Purposes of War.

The Objection, so far as the Number may extend, is founded in Truth : But it will support no Inference against the *Justice* or *Utility* of such an *Exchange*.

For tho' it is allow'd that a small Difference will be made by such Exchange in the Proportion which their respective Forces bore to each other ; yet it is to be considered that that Difference is upon the whole *collectively* ; but vanishes as it were into nothing when the Object to be considered is the *particular Exertion* of any *particular Part* of that Force. And as the Exchange supposes an equal Number restored to act against that given up, the two Nations will, so far as an Exchange is concerned, be with respect

spect to Numbers upon the same footing they were before the respective Captures, with that still remaining Diminution of their Enemies original Force, which will arise from the still remaining Prisoners; the same Circumstances and the same Efforts, which gave one the Superiority of Captures over the other, will have the same Effect; and the whole Strength of each being exerted, as far as is in the Power of the Nation which lost the greatest Number of it's Subjects by Capture, the War will probably be sooner determined.

But finally, whatever Evil or Inconvenience may be suppos'd to arise notwithstanding the Truth of this Reasoning, it seems clear that it ought to be class'd among the unavoidable Evils of War; and as such, according to an Argument deduced in the Reflections on the Point of Right, ought to be borne as equally as possible by the whole Society; and not averted from the general Interest, by the Oppression of

one Set of Men, and that One so essential as the Seamen.

That Oppression has been in general pretty fully described above; but there is one Instance of it yet unmentioned, the constant Practice of our Enemy to en-veigle and force our unhappy Countrymen into their Service.

When the Choice is between a Service set in an advantageous View, and such ^{as} affords a certain Support, or a miserable State of Imprisonment, or a more miserable Death in a Jail, it is scarce to be wonder'd at, if many are found to yield to the Temptation for Raiment, Liberty and Life, and to persuade themselves that they may abandon a Country, which abandons it's Defenders. — The Considerations drawn from the Fate of those, who stand the Test of such severe Trials, and waste away their Days, or resign their Breaths in so unmerited and so cruel an Exile, have already furnished Arguments to our Hu-
manity,

manity, this will furnish an additional Reason to those that think only of Policy.

It might render my Thoughts on this Matter more complete to discuss minutely on which Side the Chance of War, with respect to the greatest Number of Captures, may be suppos'd to lye upon the whole, which will be in a compound Ratio of the Extent of Trade and Number of Seamen, and the Force and Use of their Navies and Privateers reciprocally ; and to draw from thence some Conclusion as to the Expediency or Inexpediency of an Exchange to this Nation upon the whole, even allowing for a Moment a Non-exchange expedient in a particular Conjuncture. But it is apprehended that the Exchange contended for must be expedient in the only Conjuncture in which any thing can be offer'd with a View to shew it otherwise, viz. when we have the Superiority in point of Numbers of Prisoners of War ; and it is therefore not necessary to prolong these Reflections further. It is hoped they will evince, what was intended to be proved,

proved, that the *Claims of Justice*, the *Dictates of Humanity*, and the *Principles of Interest* are all on the Side of such an Exchange; and it is conceived that nothing can be urged against them, but *common Prejudices*, the *Routine of Office*, and the *Rights of Force*.

But a bad Practice is equally bad, whether the natural Consequences follow or not; and if they do not, our Escape must be attributed to some Concurrence of Circumstances, which no human Sagacity can foresee, which it wou'd be folly to expect, and the most extravagant Imprudence to depend upon:

Events may happen contrary to the Laws of Probability and the natural Tendencies of Virtue; but no Policy can be wise that calculates in Opposition to those Laws and those Tendencies; and it may be ever said with *Tully*; NIHIL EST QUOD ADHUC DE REPUBLICA PUTEM DICTUM, ET QUO POSSIM LONGIUS PROGREDI,

PROGREDI, NISI SIT CONFIRMATUM,
 NON MODO FALSUM ESSE ILLUD, SINE
 INJURIA NON POSSE, SED HOC VERISSI-
 MUM SINE SUMMA JUSTITIA REM-
 PUBLICAM REGI NON POSSE.

Cic. de Rep. Frag. Lib. 2.

F I N I S.



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PROGRESS, VITI ET CONTUMACIUM
NON MODO PARS ILLUS, SINE
INJURIA ET HOC VERISSI-
MUM CUM JUSTITIA TIM-
PUBLICAM R. POSSH.



Claude R. P. Eng. Lib. 2.

F I N I S

